



PCT

INTERNATIONAL PRELIMINARY EXAMINATION REPORT (PCT Article 36 and Rule 70)

Applicant's or agent's file reference EP-87897/PCT		FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/PEA/416)	
International application No. PCT/EP 02/01973	International filing date (day/month/year) 25.02.2002	Priority date (day/month/year) 25.02.2002	
International Patent Classification (IPC) or both national classification and IPC H04Q7/36			
Applicant TELEFONAKTIEBOLAGET LM ERICSSON (PUBL)			
<p>1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of 5 sheets, including this cover sheet.</p> <p><input type="checkbox"/> This report is also accompanied by ANNEXES, i.e. sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).</p> <p>These annexes consist of a total of sheets.</p>			
<p>3. This report contains indications relating to the following items:</p> <p>I <input checked="" type="checkbox"/> Basis of the opinion</p> <p>II <input type="checkbox"/> Priority</p> <p>III <input type="checkbox"/> Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</p> <p>IV <input type="checkbox"/> Lack of unity of invention</p> <p>V <input checked="" type="checkbox"/> Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</p> <p>VI <input type="checkbox"/> Certain documents cited</p> <p>VII <input type="checkbox"/> Certain defects in the international application</p> <p>VIII <input type="checkbox"/> Certain observations on the international application</p>			
Date of submission of the demand 03.09.2003		Date of completion of this report 02.07.2004	
Name and mailing address of the International preliminary examining authority:  European Patent Office - P.B. 5818 Patentlaan 2 NL-2280 HV Rijswijk - Pays Bas Tel. +31 70 340 - 2040 Tx: 31 651 epo nl Fax: +31 70 340 - 3016		Authorized Officer Baas, G Telephone No. +31 70 340-4024 	

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International application No. **PCT/EP 02/01973**

I. Basis of the report

1. With regard to the **elements** of the international application (*Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17)*):

Description, Pages

1-18 as originally filed

Claims, Numbers

1-20 as originally filed

Drawings, Sheets

1/2-2/2 as originally filed

2. With regard to the **language**, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language: , which is:

- ☐ the language of a translation furnished for the purposes of the international search (under Rule 23.1(b)).
☐ the language of publication of the international application (under Rule 48.3(b)).
☐ the language of a translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
☐ filed together with the international application in computer readable form.
☐ furnished subsequently to this Authority in written form.
☐ furnished subsequently to this Authority in computer readable form.
☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. The amendments have resulted in the cancellation of:

- ☐ the description, pages:
☐ the claims, Nos.:
☐ the drawings, sheets:

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5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed (Rule 70.2(c)).

(Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.)

6. Additional observations, if necessary:

V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	5,10-14,18
	No: Claims	1-4,6-9,15-17,19-20
Inventive step (IS)	Yes: Claims	
	No: Claims	1-20
Industrial applicability (IA)	Yes: Claims	1-20
	No: Claims	

2. Citations and explanations

see separate sheet

Re Item V

Reasoned statement with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Reference is made to the following documents:

D1: US-A-5 805 633 (UDDENFELDT JAN) 8 September 1998 (1998-09-08)
D2: US-A-5 034 993 (SOBTI ARUN ET AL) 23 July 1991 (1991-07-23)
D3: WO 99 17575 A (NOKIA TELECOMMUNICATIONS OY ;ALVESALO ANTERO (FI); HAEKKINEN HANNU) 8 April 1999 (1999-04-08)

2. The present application does not meet the requirements of Article 33(2) PCT, because the subject-matter of claims **1-4,6-9,15-17,19 and 20** is not new.

2.1 The **document D1** discloses according to the subject matter of claim 1 (the references in parentheses applying to this document): A method of dynamically re-allocating a frequency spectrum to a plurality of radio networks in accordance with a predefined spectrum allocation scheme, wherein a spectrum resource has previously been allocated to each RN or group of RNs , comprising: - generating an electronic spectrum request for a RN or a group of RNs; and - transmitting the electronic spectrum request via a communications network to a server infrastructure (column 9, lines 54-57) which also receives electronic spectrum requests for other RNs (column 9, lines 57-58), the server infrastructure processing the received electronic spectrum requests in accordance with the spectrum re-allocation scheme to re-allocate the spectrum resources to the plurality of RNs (see column 10, lines 11-14). A similar analysis could be made based on **document D2** (see column 2, line 19-column 4, line 13).The subject-matter of claim **1** is therefore not new (Article 33 (2) PCT).

2.2 Independent claim **17** is a system claim equivalent to method claim 1. Therefore, the subject matter of claim **17** is not new (Article 33(2) PCT) for the same reasons as given herein above for claim 1. Independent claims **19** and **20** relate to parts of claim 17 and are therefore also not new (Article 33(2) PCT).

2.3 Dependent claims **2-4,6-9 and 15-16** do not appear to contain any additional features which meet the requirements of the PCT with respect to novelty, the reasons being as follows:

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- Document **D1** discloses the subject matter of claim **2**, claims **6-9** (see column 9, lines 52-54: the frequency and time slot combinations can be interpreted as "spectrum credits relating to elementary spectrum units" as broadly claimed) and claims **15** and **16** (implicitly disclosed: methods in modern communications systems are normally implemented in software, this appears also the case for the method of document D1).
 - Document **D2** discloses the subject matter of claim **3** (see column 2, lines 53-65) and claim **4** (see column 3, lines 22-27).
3. The present application does not meet the requirements of Article 33(3) PCT, because the subject-matter of claims **5**, **10-14** and **18** does not involve an inventive step for the following reasons:
- The subject matter of claim **5** is disclosed by **document D3** (see page 11, lines 6-8). Its inclusion in the method disclosed by document D1 appears to be obvious to the skilled person.
 - The subject matter of claims **10-14** and **18** relates to the use of an auction procedure for the spectrum allocation. The use of an auction procedure for long-term spectrum allocation between network providers is, however, **generally known**, as indicated on page 2, lines 11-17 of the application. The implementation thereof in the (short term) method of dynamically re-allocating resources of the present application appears to be obvious to the skilled person.